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EXAMINER

MELWANI, DINESH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3677

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/814,229

Applicant(s)

LIPPOLDT ET AL.

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-19 is/are rejected.
- 7) ☒ Claim(s) 4 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15. 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Acknowledgment is made of Applicant's submission of:

Amendment D filed on 10/24/03

Extension Of Time (3 Mos.) filed on 10/24/03

The aforementioned items have been noted and officially inserted into the application.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 10/24/03 is being considered by the examiner.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the closure being pivotally supported on the housing (claim 15) and the several catch hooks (claim 19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

***Claim Objections***

4. Claim 1 is objected to because of the following informalities: 1) typographical error in line 7. The Examiner suggests replacing the word “liver” with --lever--. 2) A typographical error in line 10. The Examiner suggests replacing the word “radical” with --radial--. 3) A grammatical error in line 23. The Examiner suggests replacing the word “with” with the word --at--.

Appropriate correction is required.

5. Claims 9 and 10 are objected to because of the following informalities: In an effort to maintain consistency throughout the Application, the Examiner suggests replacing the phrase “catch lever” with --catch hook--.

Appropriate correction is required.

6. Claim 18 is objected to because of the following informalities: typographical error in line 2. The Examiner suggests inserting the corresponding parentheses --)-- after the number 11.

Appropriate correction is required.

7. Claim 1 is objected to because it is unclear whether the Applicant is intending to claim the sub-combination of a locking device OR the combination of the locking device and the closure with a housing. For the purposes of examination the claim has been treated as drawn to

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the sub-combination set forth above. The Applicant is advised to indicate if this assumption is correct and to amend the preamble of claim 1 to reflect the combination.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-7 and 9-19 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Appropriate correction is required.

11. Claim 1 contains a plurality of instances (e.g. lines 19 & 25) where the word “if” is used and renders the claim indefinite. The Examiner suggests replacing the word “if” with the word --when--.

12. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 is currently idiomatic and nonsensical. The Examiner suggests rewording Claim 16 so that it's claim limitations correctly defines the scope of the invention that the Applicant is intending to claim.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 5, 6, 9-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Herman (U.S. Patent No. 3,806,174). Herman discloses a locking device of a closure with a housing: at least one swiveling lever (21) pivotally supported about an axis of rotation (about 20) in the housing and including a projecting guide element (20), at least one drive (26) for pivoting the swiveling lever about the axis of rotation, at least one catch hook (25) supported on the swiveling lever (at 24) at a distance from the axis of rotation on a pivot axis (about 24) which, at a radial distance from the pivot axis, has a cam segment (30) concentric thereto, into which the guide element (20) of the swiveling lever engages, at least one spring means (34) for biasing the catch hook in a closing direction until the guide element bears against a first final stop of the cam segment, see Figs. 3-5. Herman also includes at least one closing edge (33) of the closure, see Figs. 3-5. In regards to claims 5 and 6, Herman's guide element (20) is a guide pin defined by a prolongation of the axis of rotation of the swiveling lever. In regards to claim 9, Herman's catch hook has a widened base in which the pivot axis (about 24) is supported and which, between the pivot axis and an adjoining neck with the hooked end (27), includes the cam segment (30). In regards to claim 10, the catch hook has a fixing point (A in Fig. 4) for the spring element (34) on the neck between the cam segment (30) and the hooked end (27). Regarding claim 11, Herman's spring element (34) is held on the housing at the other end, see col. 2, lines 40-41. As it concerns

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claim 12, Herman's catch hook is adapted to be moved through a slot-shaped aperture in the upper side of the housing which enables the catch hook to be displaced perpendicular to the upper side of the housing and parallel thereto. In regards to claim 13, the catch hook does not substantially project beyond the upper side of the housing, Fig. 2. Regarding claims 14 and 16, Herman's closing edge is formed in a region which stands back with respect to the underside of the closure with a cavity existing thereabove, see Figs. 3-5. In regards to claim 18, the pivot axis in the closing position, has been moved beyond a straight line extending through the point of rest of the hooked end on the closing edge and through the guide element to cause a self-locking action, see Figs. 3-5.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2, 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman (U.S. Patent No. 3,806,174). Herman discloses a swiveling lever but fails to disclose that is substantially of a circle segment shape. The Applicant is reminded that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). As it concerns claim 3, Herman as modified by the case-law above discloses the axis of rotation (20) being disposed in an inner angular range of the circle segment-shaped swiveling lever and wherein the pivot axis (24) is disposed in vicinity of a

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lateral limitation of the circle segment-shaped swiveling lever. In regards to claim 19 drawn to several catch hooks, the Applicant is reminded that duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

17. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herman (U.S. Patent No. 3,806,174) in view of Baukholt *et al.* (U.S. Patent No. 5,992,194). Herman discloses a drive for his latching system, wherein said drive is handle intended to be manually moved. Baukholt teaches the use of an electric motor to automate opening and closing of latch assemblies in vehicles. The Applicant is reminded that the replacement of a manual operation with an automatic operation is a design consideration within the skill of the art. In re Venner, 262 F.2d 91, 120 USPQ 192 (CCPA 1955). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Baukholt's teaching, regarding an electric motor, to automate Herman's lock assembly.

#### ***Allowable Subject Matter***

18. Claims 4 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter: Claim 4 is allowable over the prior art of record because the teachings of the references taken as a whole do not show or render obvious the combination of a locking device having a circle segment-shaped swiveling lever having a marginal are with a series of teeth. Claim 17 is



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allowable over the prior art of record because the teachings of the references taken as a whole do not show or render obvious the combination of a closure being adapted to be sealingly pulled back by the catch hook against a seal of the housing.

***Response to Arguments***

20. Applicant's arguments with respect to claims 1-7 and 9-19 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM

  
**ROBERT J. SANDY**  
PRIMARY EXAMINER